

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BASIL SEGGOS, as Commissioner of the New York
State Department of Environmental Conservation
and Trustee of New York State's Natural Resources,
and the STATE OF NEW YORK,

Plaintiffs,

-against-

CIV NO. 2:17-CV-2684

**New Empire Builder Corp.'s
Opposition to Fee Request by
Special Master**

THOMAS DATRE, JR.; CHRISTOPHER GRABE; 5
BROTHERS FARMING CORP.; DAYTREE AT
CORTLAND SQUARE INC.; IEV TRUCKING CORP.;
COD SERVICES CORP.; ALL ISLAND MASONRY &
CONCRETE, INC.; BUILDING DEV CORP.; DIMYON
DEVELOPMENT CORP.; NEW EMPIRE BUILDER
CORP.; CIPRIANO EXCAVATION INC.;
TOUCHSTONE HOMES LLC; SAMS RENT AND
CONSTRUCTION; SAM'S RENT, INC.; NEW YORK
MAJOR CONSTRUCTION INC.; EAST COAST
DRILLING NY INC.; TRITON CONSTRUCTION
COMPANY, LLC; SUKRAM AND SONS LTD.; M & Y
DEVELOPERS INC.; "JOHN DOE"; ATRIA
BUILDERS, LLC; WOORI CONSTRUCTION INC.;
PLUS K CONSTRUCTION INC.; NY FINEST
ENTERPRISES INC.; MONACO CONSTRUCTION
CORP.; ALEF CONSTRUCTION INC.; 158
FRANKLIN AVE. LLC; LUCIANO'S
CONSTRUCTION, INC.; ILE CONSTRUCTION
GROUP, INC.; EAST END MATERIALS, INC.;
SPARROW CONSTRUCTION CORP.; CIANO
CONCRETE CORP.; FREEDOM CITY
CONTRACTING CORP.; and TOTAL STRUCTURE
SERVICES INC.,

Defendants.

PAUL J. FELICIONE, an attorney duly admitted to practice law before the Courts of
the State of New York and specifically to the United States District Court for the Eastern
District of New York, states and alleges the following under the penalties of perjury:

1. I am a partner in the law firm of Desena & Sweeney, LLP, attorneys for New Empire Builder Corp. As such I am fully familiar with the proceedings described herein.
2. I respectfully submit this opposition to the fee application of Special Master J. Kevin Healy, Esq.
3. The exhibits annexed to the fee application reference a total fee amount of \$175,110.20. It is respectfully submitted that this amount is exorbitant for the services provided in preparation of the Report and Recommendations.
4. The records submitted show over 300 attorney hours at the rates in the range of \$620 and \$644 per hour for Attorney Healy and Attorney Karmel, respectively.
5. The issues involved in this litigation and in the preparation of the above report are relatively clear and well defined. It is respectfully submitted that there is no reason as to why multiple attorneys should have been required regarding this matter. At least four separate attorneys were utilized in the preparation of this report from the firm. This resulted in numerous entries regarding consultations between attorneys and repetitious reviewing of documents by multiple attorneys.
6. In addition, the billing documents contain numerous entries beginning with "worked on..." without any clarification as to what exactly the billing attorney actually did in terms of legal work.
7. The entries also contain clerical functions billed at attorney's rates. Such entries contain "Arrange for case pull", "Email librarian", and "retrieve cases".
8. The entries also contain the phrase "review cases" and "review treatise" and "review briefs" without specificity as to what exactly is being reviewed and the purpose of the review.

9. The entries also contain numerous inter-office conferences between attorneys. The Court assigned a Special Master for a Report and Recommendation and not numerus "special masters" from one law firm.
10. The entries for Westlaw computerized searches should not be billed since it should be part of overhead of a modern law firm where monthly/yearly rates should apply.
11. In summary, the entries submitted totaling over \$175,000 should not be accepted by this Court in its current form. The vague entries, reviews by multiple attorneys, conferences between attorneys and for Westlaw services should be rejected by this Court. The Applicant should be directed by the Court to re-submit invoices and charges that cure the items addressed above which should result in a more reasonable fee or the Court should reduce the fees in accordance with the above.

Dated: Bohemia, New York
October 15, 2019


DESENA & SWEENEY, LLP

PAUL J. FELICIONE, ESQ. (PF-7795)

Attorneys for Defendant
NEW EMPIRE BUILDER CORP.
1500 Lakeland Avenue
Bohemia, NY 11716
631-360-7333

Case No. 2:17-CV-2684

Year 2017

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BASIL SEGGOS, as Commissioner of the New York State Department of Environmental conservation and Trustee of New York State's Natural Resources, and the STATE OF NEW YORK,

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THOMAS DATRE, JR.; CHRISTOPHER GRABE; 5 BROTHERS FARMING CORP.; DAYTREE AT CORTLAND SQUARE INC.; IEV TRUCKING CORP.; COD SERVICES CORP.; ALL ISLAND MASONRY & CONCRETE, INC.; BUILDING DEV CORP.; DIMYON DEVELOPMENT CORP.; NEW EMPIRE BUILDER CORP.; CIPRIANO EXCAVATION INC.; TOUCHSTONE HOMES LLC; SAMS RENT AND CONSTRUCTION; SAM'S RENT, INC.; NEW YORK MAJOR CONSTRUCTION INC.; EAST COAST DRILLING NY INC.; TRITON CONSTRUCTION COMPANY, LLC; SUKRAM AND SONS LTD.; M & Y DEVELOPERS INC.; "JOHN DOE"; ATRIA BUILDERS, LLC; WOORI CONSTRUCTION INC.; PLUS K CONSTRUCTION INC.; NY FINEST ENTERPRISES INC.; MONACO CONSTRUCTION CORP.; ALEF CONSTRUCTION INC.; 158 FRANKLIN AVE. LLC; LUCIANO'S CONSTRUCTION, INC.; ILE CONSTRUCTION GROUP, INC.; EAST END MATERIALS, INC.; SPARROW CONSTRUCTION CORP.; CIANO CONCRETE CORP.; FREEDOM CITY CONTRACTING CORP.; AND TOTAL STRUCTURE SERVICES INC.,

Defendants.

NEW EMPIRE BUILDER CORP.'S OPPOSITION TO FEE REQUEST BY SPECIAL MASTER

DESENA & SWEENEY, LLP
Attorneys at Law
Attorneys for NEW EMPIRE BUILDER CORP.
1500 Lakeland Avenue
Bohemia, New York 11716
(631) 360-7333

Sir: Please take notice

☐ NOTICE OF ENTRY

that the within is a (*certified*) true copy of a
the within named Court on

, 20

duly entered in the office of the clerk of

☐ NOTICE OF SETTLEMENT

that an order of which the within is a true copy will be presented for settlement to the Honorable
, one of the judges of the within named court at on , 20 at M.

Yours etc.,

See Service Rider

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